



April 20, 2007

Via Electronic Filing

Hon. Deborah Taylor Tate
Federal Communications Commission
445 Twelfth Street, S.W.
Eighth Floor
Washington, DC 20554

Re: CC Docket 96-45
WT Docket 05-335

Dear Commissioner Tate:

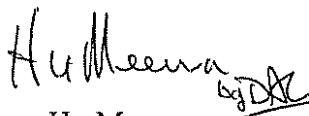
I write to follow up on our recent meeting in Orlando concerning universal service. As you know, most states require wireless carriers to be accountable for the federal universal service funds received so that consumers see the benefits of improved service availability and service quality that Congress intended to deliver.

In Mississippi, we report to the Public Service Commission every quarter on our use of support, and file an annual report on the progress we are making to improve service in the state and our plans for investing the support expected to be received in the next year. Recently, the Public Service Commission adopted new rules to strengthen its oversight of wireless carriers. I have enclosed a copy of those rules for your reference.

We are proponents of accountability because we believe that federal universal service support should be provided for investments that are efficient and necessary to provide rural consumers with reasonably comparable choices in services as stated in the 1996 Act. We hope that you will continue to support rural consumers' ability to access those services that people in urban areas take for granted today.

Should you have any questions or require any additional information, please call me at any time.

Sincerely,


Hu Meena

Enclosure

**BEFORE THE PUBLIC SERVICE COMMISSION
OF
THE STATE OF MISSISSIPPI**

MISSISSIPPI PUBLIC SERVICE COMMISSION

DOCKET NO. 05-AD-662

**IN RE: IN THE MATTER OF ELIGIBLE TELECOMMUNICATIONS CARRIER
DESIGNATION FOR FEDERAL UNIVERSAL SERVICE SUPPORT**

**ORDER ESTABLISHING REQUIREMENTS FOR
ELIGIBLE TELECOMMUNICATIONS CARRIERS**

In this docket, the Mississippi Public Service Commission (“Commission”) considered the requirements that must be met by carriers seeking designation as an Eligible Telecommunications Carrier (“ETC”), as well as annual certification and reporting requirements for all ETCs. After careful study of all comments filed in this docket, as well as decisions of the Federal Communications Commission (“FCC”) and prior decisions of this Commission and upon the recommendation of the Public Utilities **Staff (“Staff”)**, the Commission establishes the ETC requirements as described herein, and more **fully** specified in the adopted checklist, referenced as Exhibit “A” to this order.

Prologue

The Telecommunications Act of 1996 (“TA96”) provides for the designation of carriers eligible to receive Universal Service Fund (“USF”) support. See 47 USC § 214(e). The purpose of USF support is to advance quality services at just, reasonable and affordable rates; provide access to advanced telecommunications and information services; offer access to services in **rural** areas comparable to services in urban areas; and support other policies as are developed over time. See 47 USC § 254(b). ETCs, which have become designated so as to be eligible for the receipt of USF funds, must “use that support only for the provision, maintenance and upgrading of facilities and services for which the support is intended.” 47 USC § 254(e).

An ETC that is an incumbent local exchange carrier (“ILEC”) receives **USF** support based on the cost of providing supported services. A competitive ETC (“CETC”) receives USF support for subscriber lines that it serves in areas where USF support is distributed to an **ILEC**. See 47 CFR § **54.307**. The ETC

may offer services, either using its own facilities *or through* a combination **of** its own facilities and resale of another carrier's services. See 47 USC § 214(e)(1). ETCs must provide the following services pursuant to 47 U.S.C. § 214(e) and 47 C.F.R. § 54.101:

- (1) Voice grade access to the public switched network;
- (2) Access to free of charge "local usage," defined as **an** amount ~~of~~ minutes of use **of** exchange service;
- (3) Dual-tone multi-frequency signaling or its functional equivalent;
- (4) Single-party service or its functional equivalent;
- (5) Access to emergency services;
- (6) Access to operator services;
- (7) Access to directory assistance;
- (8) Access **to** interexchange services; and
- (9) Toll limitation services for qualifying **low** income customers.

The amount of support provided to the CETC for a subscriber line mirrors the amount provided to the ILEC for that subscriber line. See 47 CFR § 54.307

Pursuant to 47 USC § 214(e)(1), the basic criterion used by state commissions to determine whether an applicant should be designated **as** an ETC is (1) whether it properly offers the services supported by federal universal service support mechanisms and (2) whether it properly advertises those services and the associated charges. TA96 contains two different standards for granting ETC designation, dependent upon whether a non-rural or a ~~rural~~ ILEC serves the area in which ETC designation is sought. If a non-rural ILEC serves the **area**, the state commission must designate more **than** one ETC "upon request and consistent with the public interest, convenience and necessity." However, where a rural ILEC serves the area, the state commission may choose to designate more than one ETC only after a specific finding "that the designation is in the public interest." 47 USC § 214(e)(2)

The FCC, in various orders, established **a** creamskimming test in denying requested ETC designations in certain areas. *See Federal-State Joint Board on Universal Service; Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier for the Commonwealth of Virginia, FCC 04-37, 19 FCC Rcd 6422 (rel April 12, 2004); Federal-State Joint Board on Universal Service, Virginia Cellular, LLC, Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia, FCC 03-338, 19 FCC Rcd 1563 (rel Jan 22, 2004)*

On March 17, 2005, the FCC adopted recommendations by the Federal-State Joint Board on Universal Service ("Joint Board") regarding requirements for ETC designation proceedings and annual certification filings. The FCC also strengthened their reporting requirements for ETCs to ensure that high-cost universal service support is used only for its intended purposes. See *In The Matter of Federal-State Joint Board on Universal Service, FCC 05-46, 20 FCC Rcd 6371 (re March 17, 2005)* (hereinafter "FCC 05-46"). State commissions were not mandated to adopt said requirements.

This Commission opened this docket on November 22, 2005, following a recommendation of the Staff. The Commission requested comments on issues germane to ETC designation.

Notices of interventions were filed by: BellSouth Telecommunications, Inc. ("BellSouth and/or non-rural ILECs"); Alltel Communications, Inc. ("Alltel"); Sprint Communications Company, L.P. ("Sprint"); RCC Holdings, Inc. d/b/a Unicef ("RCC"); Alltel Mississippi, Inc. ("Alltel Mississippi"); NOW Communications, Inc.; Sprint Spectrum, L.P., d/b/a ("Sprint PCS"); Cellco Partnership d/b/a Verizon Wireless; NPCR, Inc. d/b/a Nextel Partners ("Nextel Partners"); Telepak Networks, Inc.; Cellular South Licenses, Inc. ("Cellular South"); Southern Communications Services, Inc. d/b/a Southern LINC Wireless ("Southern LINC Wireless"); Mississippi Independent Rural Telephone Companies ("rural ILECs"); CommuniGroup of Jackson, Inc. d/b/a CommuniGroup; GulfPines Communications, LLC; Southeastern Competitive Carriers Association ("SECCA"); New Cingular Wireless PCS, LLC ("Cingular Wireless"); Budget Phone, Inc.; Centennial Cellular Tri-State Operating Partnership and Centennial Claiborne Cellular Corp. ("Centennial"). Comments were filed in this docket by: Alltel; Centennial; BellSouth; Cingular Wireless; Cellular South; Nextel Partners; Sprint PCS; the rural ILECs and SECCA. Reply Comments were filed in this docket by: BellSouth; Sprint; Centennial; Alltel Mississippi; Alltel; Nextel Partners; RCC; Southern LINC Wireless and the rural ILECs.

On August 10, 2004, in Rocket 03-UA-0234 (Centennial Order), this Commission adopted the following five factors when conducting a public interest analysis, applicable to requests for ETC designation in rural areas:

- (1) Benefits of increased competition;

- (2) Impact of designation upon the Universal Service Fund;
- (3) Commitment to quality of service by the competitive provider and ability to provide the supported services in a timely manner;
- (4) Unique advantages and disadvantages of a competitor's service offering; and
- (5) Creamskimming analysis

In said Order, this Commission further adopted the following requirements applicable to all rural

CETCs:

- (1) Mandatory compliance with the CTIA Consumer Code for Wireless Service ("CTIA");
- (2) Submission to the Commission the number of consumer complaints per 1,000 handsets on a quarterly basis;
- (3) Designation of a representative, with authority to resolve all complaints involving customer service or quality of service; and
- (4) In providing supported services, the competitive provider must provide immediate service to prospective customers within its existing network. When the prospective customer lies within the carrier's service area but outside of its existing network coverage, the ETC must take the following steps in descending order:
 - (a) Determine whether the requesting customer's equipment can be modified or replaced to provide service;
 - (b) Determine whether a roof-mounted antenna or other equipment can be deployed to provide service;
 - (c) Determine whether adjustments can be made at the nearest cell tower to provide service;
 - (d) Determine whether a cell extender or repeater can be employed to provide service;
 - (e) Determine whether there are any other adjustments to network or customer facilities that can be made to provide service;
 - (f) Determine whether it can offer resold services from another carrier's facilities to provide service;
 - (g) Determine whether an additional cell site can be constructed to provide service and evaluate the costs and benefits of using high-cost support to serve the number of customers requesting service through such additional cell sites. If there is no possibility of providing service short of construction of a new cell site, the ETC will report this fact to the Commission, along with the projected costs of construction and the ETC's determination as to whether the request for service is reasonable and whether high-cost funds should be expended on the request; and
 - (h) Steps (a)-(f) of this procedure must be completed by the provider within thirty (30) days of receiving a request for service. Should the provider find it necessary to proceed to Step (g), the provider must promptly notify the Commission and complete the analysis within an additional fifteen (15) days.

This Commission further found in said order that a carrier must show its financial stability.

Finally, this Commission imposed reporting duties upon rural CETCs:

- (1) Submission of quarterly reports detailing the number **of** service requests in the licensed area which go unfulfilled and the basis for the refusal **of** service;
- (2) Submission of an initial build-out plan for areas where facilities do not yet exist upon designation as an eligible carrier;
- (3) Submission of maps showing existing facilities, coverage area and planned sites of new facilities upon designation as an eligible carrier and updated annually;
- (4) Submission of a yearly Universal Service Plan on June 1st of each year for the Commission's use in complying with the October 1st certification deadline set forth by the FCC. The plan must include the amount of universal service funds the carrier expects to receive the following year and the carrier's proposed use of those funds; and
- (5) The carrier must file quarterly reports **of** the amount of universal funds received for the quarter and updates of the progress of the projects previously approved by the Commission.

After carefully reviewing all written comments presented in this docket and considering the FCC action and the complete record herein, and upon the recommendation **of** the Staff; the Commission herein adopts requirements **for** ETC designation, annual certification, and annual and quarterly reporting requirements. The Commission finds that these requirements, shall apply to every type of carrier ("wire line and wireless") that receives universal service support ("both ILEC and CETC"); to carriers seeking to receive such federal support; and to carriers who have been designated as an ETC, regardless of whether said carriers actually received **USF** support. The Commission further finds that the requirements adopted herein, and as reflected in the attached checklist, Exhibit "**A**", shall replace all previously adopted requirements. Previously designated ETCs are required to submit, on a one-time basis only, no later than August 1, 2007, a filing proving compliance with the eligibility requirements discussed *infra*.

I. Initial Designation of ETCs

A. Eligibility Requirements

*1. Should **this** Commission adopt any, or all, of the eligibility requirements contained in FCC 05-46?*

¹ ETC applicants must satisfy the provisions of Rule 7 of this *Commission's Public Utilities Ruler of Practice and Procedure* before advancing to the submission of documentation to comply with the eligibility requirements contained in the checklist.,

Five permissive eligibility requirements for initial designation of ETCs are contained in FCC 05-46, to-wit:

- (1) Commitment and ability to provide supported services throughout the proposed service area, including a five-year network improvement plan;
- (2) Ability to remain functional in emergency situations;
- (3) Commitment to meeting consumer protection and service quality standards;
- (4) Offering of local usage plan comparable to the ILEC in the serving area; and
- (5) Acknowledgment by the carrier that it may be required to offer equal access to long distance carriers in their designated service area in the event no other ETC is providing equal access² within the service area.

The Commission finds that certain FCC eligibility requirements, identified in FCC 05-46, have merit, are in the public interest and are adopted as set forth herein. The requirements adopted herein shall apply to all pending and future requests for ETC designations. The eligibility requirements adopted herein are more particularly described in the attached checklist, Exhibit “A”, which is incorporated herein by reference. Previously designated ETCs shall also comply with the one-time filing requirement discussed herein

Commitment and Ability to Provide the Supported Services Throughout the Proposed Service Area, including a Five-Year Network Improvement Plan

The concern of this Commission is to ensure that customers receive high quality and reliable service within the State of Mississippi. The Commission, therefore, adopts the requirement that an ETC applicant must show its capability and commitment to provide service throughout its designated service area to all customers who make a reasonable request for service. The attached checklist contains the requisite documentation and types of services mandated. Where the ETC’s network currently passes or covers the potential customer’s premises, the ETC should provide service immediately. If a request comes from a potential customer within the applicant’s licensed service area, but outside its existing network coverage, the ETC applicant should provide service within thirty (30) days if service can be provided by performing the required activities, as described in steps (i) through (vi) contained in the checklist (Part I.A 1(c)). Should an ETC applicant be unable to serve the customer using one or more of

² FCC 05-46, 16 n 90

the methods identified in steps (i) through (vi) of the checklist, the ETC shall make the required determination described in step (vii) of the checklist. The ETC shall report the unfulfilled request to this Commission immediately and, no later than fifteen (15) days thereafter, analyze the situation and report to the Commission the results of such analysis in conformance with step (vii) of the checklist.

With some exceptions, the general consensus of the parties presented in this docket is a recommendation that this Commission decline to mandate a five-year network improvement plan but should instead maintain its previously adopted one-year build-out plan. Opposition to the five-year plan includes assertions that the telecommunications industry is dynamic; technology evolves at a rapid pace; information submitted for a projected five-year timeframe would not provide reliable information; carriers would be unduly burdened; such requirement would waste resources by analyzing data that would likely be out of date before the five-year timeframe had expired; and plans for wireless networks change on a quarterly basis. The Commission agrees with these assertions and finds that the telecommunications marketplace is highly dynamic and any plans beyond one year would represent unreliable data. The Commission finds that it is in the public interest to avoid imposing unnecessary, burdensome and costly requirements upon carriers seeking ETC status. Therefore, this Commission declines to adopt the FCC's recommended five-year plan detailing how each ETC intends to utilize universal service support to improve service within the service areas for which it seeks designation. Instead, the Commission retains its previously adopted requirement that all carriers provide a specific and detailed Universal Service Fund Utilization Plan ("USF Utilization Plan") covering a one-year period.) This plan must include maps, which cover a span of the upcoming year, detailing with specificity all proposed improvements and/or upgrades to the ETC applicant's network, with a reference to all existing facilities and coverage area. Each ETC applicant must specify, with detailed information, how it will use high-cost support to provide for service improvements that would not occur absent receipt of such support. In addition to map information, the USF Utilization Plan must specify the following three (3) other components:

³ Previously designated ETCs must file a USF Utilization Plan on or before June 1st of each calendar year, as detailed on pages 5 and 6 of the checklist.

- (1) A detailed explanation of how signal quality, coverage or capacity will be improved due to the receipt of high-cost support throughout the area for which the ETC seeks designation;
- (2) The amount of universal service funds the carrier expects to receive the following year and the carrier's proposed use of the funds it projects to receive in the upcoming year; and
- (3) The specific build-out plan for areas where facilities do not yet exist

Should any of the above components be inapplicable to a carrier, the carrier shall provide the reason for the inapplicability.

The Commission further requires a carrier seeking initial designation as an ETC to append to their filing the supporting documentation required per the checklist.

The rural ILECs seek to be exempt from a requirement to file build-out plans. Instead, they advocate filing their annual federal IJSF submission, which is used to establish the rural carrier's current calendar year federal **USF** disbursements, with no wire center data. This Commission declines to provide this exemption to the rural ILECs. The Commission requests the Staff to work with the rural ILECs in the development of a doable format for these carriers to actuate when submitting a USF Utilization Plan, discussed *infra.*,

The Commission retains its previously adopted requirement that a carrier prove financial stability as a factor for this Commission to review when assessing the carrier's capability to actually provide service. Further, each ETC applicant shall provide the financial documentation described on page 3 of the adopted checklist. In addition, each ETC carrier shall file an annual report required pursuant to Rule **16.101** of the *Commission's Public Utilities Rules & Practice and Procedure*.⁴

Also, regarding the annual reporting duties of all ETCs, each ETC will be required to provide the information stated on pages 18-20 of this order.

It is the preference of this Commission that, where feasible, all of the information discussed under this topic and as detailed in the checklist should be furnished on a wire center by wire center basis throughout the carrier's designated service area. Where such is not feasible, the carrier is authorized to furnish the above-required information on a county by county basis

⁴ The Commission requests the Staff to work with carriers that do not currently file an annual report to develop an acceptable annual report matrix

The Commission finds that the requirements noted herein, and as more particularly described in the checklist adopted herein, supersede any other previously adopted requirements imposed by this Commission upon ETCs. Full compliance with these requirements is expected of all ETCs, regardless of whether each carrier actually received USF support. A failure to abide by all requirements contained in this order and adopted checklist may result in an inquiry concerning whether or not a designation should be suspended or withdrawn. The Commission acknowledges its statutory right to change, modify or rescind any adopted requirement herein on a prospective basis, and after providing notice and opportunity to be heard to all affected carriers.

Ability to Remain Functional in Emergency Situations

While there are representations that no additional requirements are needed since the wireless industry standards regarding emergency backup are sufficient, other parties acknowledged the need for emergency backup power plans; ability to make and receive calls during an outage; ability to reroute traffic around damaged facilities; and ability to manage traffic spikes resulting from emergency situations.

The Commission finds that ETCs remaining functional during times of emergencies is critical for the public interest. Hurricane Katrina emphasized the acute need for communication during a crisis. Therefore, the Commission finds that each ETC applicant and/or designee ("ETC") must be able to prove that it has the capability to remain functional in emergency situations. In making such proof, each ETC must submit a current emergency operations plan or other designated emergency plan ("EOP"). Should an ETC not have an EOP, it must provide documentation showing that it possesses a reasonable amount of backup power to ensure functionality without an external power source; has the ability to reroute traffic around damaged facilities; and is capable of managing traffic spikes resulting from emergency situations.

There is overwhelming agreement that the adoption of a requirement that ETCs report outages to the Commission would be unnecessarily duplicative of the FCC's outage reporting requirements. Also, certain parties assert that such a requirement would add a layer of costs to ETCs, without any commensurate contributions to the goals of universal service. The Commission finds that as part of the annual certification process, ETCs must comply with the FCC reporting requirements concerning outages.

Additionally, each ETC, when requested by the Commission, must submit copies of all such reports to the Commission. The Commission will, on a case-by-case basis, evaluate the carrier and may consider other factors relevant to such carrier.

Commitment to Meeting Consumer Protection *and* Service Quality Standards

Many commenters endorse the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service ("CTIA")⁵ as a sufficient commitment to achieving this proposed requirement. The rural ILECs suggest that this Commission require all ETCs to commit to the Commission's wireline service quality rules and that wireless ETCs wishing an alternative standard would be required to seek a waiver. Sprint countered that requiring a waiver from the application of wireline service quality standards would be contrary to the concept of competitive neutrality. The Commission declines to agree with the rural ILECs' proposal as we choose not to favor any particular type of industry or technology over the other. The Commission finds that an ETC must show its commitment to meeting consumer protection and service quality standards. The Commission retains its current requirement that all wireless ETCs comply with the CTIA. The Commission declines to require wireline carriers to comply with the CTIA. Instead, wireline carriers must comply with this Commission's Rules and *Regulations* Governing Public Utility Service and with the service quality standards, which have been designated for each carrier. Both wireless and wireline carriers must, on a quarterly basis, report data on consumer complaints to the Commission regarding the number of consumer complaints per 1000 handsets and/or per 1000 access lines. The Commission will further assess, on a case-by-case basis, the adequacy of other commitments presented in each filing. Each ETC is required to submit the identity and telephone number of its designated representative, with full authority to resolve complaints on behalf

⁵ Under the CTIA Consumer Code, wireless carriers agree to: (1) disclose rates and terms of service to customers; (2) make available maps showing where service is generally available; (3) provide contract terms to customers and confirm changes in service; (4) allow a trial period for new service; (5) provide specific disclosures in advertising; (6) separately identify carrier charges from taxes on billing statements; (7) provide customers the right to terminate service for changes to contract terms; (8) provide ready access to customer service; (9) promptly respond to consumer inquiries and complaints received from governmental agencies; and (10) abide by policies for protection of consumer privacy

of the carrier regarding customer service, quality of service and/or Lifeline and Link-Up inquiries. The Commission places ETCs on notice that it reserves the right to impose additional service quality standards, on a case-by-case basis, as deemed necessary in the public interest.

Local Usage Plan

Generally, wireless carriers state that it would be nonsensical for this Commission to require wireless carriers to match wireline rate structures and vice versa. Centennial states that an ILEC's service offerings should not be used as a benchmark for evaluating the desirability of advanced services. Also, Centennial asserts that wireless carriers offer options of service that the ILECs do not. Cellular South recommends that we review local usage plans on a case-by-case basis due to differences between carriers, applicable local usage plans and ever changing technological innovations. Alltel advances that this Commission clarify that "comparable local usage" does not mean "identical local usage". Another offered suggestion was that this Commission decline to impose a specific number of local minutes because customers place different values on service offerings. Sprint notes that the term "comparable" defies definition when comparing such diverse service offerings as those typically offered by a wireline and wireless or other telecommunications carrier. Sprint states that this requirement would not be competitively neutral. Southern LINC Wireless asserts that this Commission is best served by declining to adopt rules that would favor the wireline industry or the wireless industry, thereby ensuring competitive neutrality. Commenters also state that wireless carriers' networks are vastly different from wireline networks.

The Commission finds that an ETC applicant will have the burden of showing how its local usage calling plan is "comparable" but not "identical" to those offered by the ILECs in the proposed service area. All ETCs will be required to offer a minimum of one affordable offering similar to an ILEC's basic local service offering for low income customers. Applicants must submit their specific local service offerings in their filing. The Commission declines to mandate that an ETC applicant meet a minimum local usage requirement. The Commission finds that the competitive marketplace provides options for customers that meet their specific needs. Therefore, the Commission finds it best to review each ETC

applicant's specific local usage plans on a case-by-case basis. However, each ETC must commit to furnish Lifeline and Link-Up service to qualified consumers. Each carrier's commitment will be evaluated on a case-by-case basis to ensure that this requirement is satisfied. The attached checklist describes other factors which will be considered by this Commission.

Equal Access

The FCC declined to impose an equal access requirement on ETC applicants. However, the FCC found that ETC applicants should acknowledge that the FCC may require them to provide equal access to long distance carriers in their designated service area in the event that no other ETC is providing equal access within the service area. The FCC stated that any decision to impose equal access requirements would be reviewed on a case-by-case basis.

The rural ILECs propose that this Commission clarify that any duty to make the required "acknowledgement" by a CMRS provider would be subject to that provider's obligations under federal law. The Commission agrees with this proposal. Therefore, this Commission finds that an ETC applicant must acknowledge in writing that it may be required to provide equal access to long distance carriers in the event that no other ETC is providing equal access within the service area, subject to that provider's obligations under federal law.

In summary, the Commission finds that any new applicants for ETC status and ETCs submitting their annual certification and reporting must comply with the requirements listed herein and as more fully fleshed out in the attached checklist. In other words, these requirements will apply to all types of carriers ("wireline and wireless") in both rural and non-rural service areas, regardless of type of federal universal support, unless specifically noted otherwise. The attached checklist contains detailed information on the specific components, which must be presented per the requirements adopted herein. Further, the requirements adopted herein shall replace and supersede all previously adopted requirements. Additionally, ETCs must file, on a one-time basis only, the required proof previously discussed herein.

B. Criteria for Public Interest Showing

1 Should the FCC's proposed criteria in FCC OS-46 be adopted? Should a creamskimming analysis continue to be employed? If so, should the requirements adopted by the Commission herein apply for designations in rural and non-rural ILECs' service areas?

Two criteria that the FCC uses when determining if designation of a carrier is in the public interest are: (1) the benefits of increased consumer choice; and (2) the advantages and disadvantages of the particular service offerings made available by the designation

In relation to the first criteria, *supra*, the Commission finds that it will be inadequate for an applicant to merely assert that competition will be increased to prove that the public interest is served. Instead, an ETC applicant must prove there exists specific choices of service offerings in both rural and high-cost areas, **Also**, other factors which will be considered include, but are not limited to, increased mobility, reduced or eliminated toll charges, the availability of services such as voice mail, call waiting, and call forwarding. Further, the Commission reserves the option of addressing additional issues relevant to the public interest that each unique ETC application may present to this Commission.

Regarding the above-stated second criteria, ETC applicants may satisfy this requirement by showing an offering of lesser charges to potential customers, and in rural areas, the ability of customers to have access to features and premium services largely promoted in urban areas. The Commission finds that it will be relevant to examine disadvantages, including but not limited to, inadequate service coverage or dropped call rates. The Commission places carriers on notice that the Commission may examine other relevant factors on a case-by-case basis.

The FCC, in FCC 05-46, determined that a creamskimming test should be included in the analysis of the "public interest showing" before an ETC designation is made in the rural ILECs' service areas. Creamskimming refers to the possibility that a CETC will serve a disproportionate share of the higher-density portion of a rural service area. Where an ILEC has not disaggregated support below the service area level, support for each line is based on the ILEC's average costs for serving the entire service area. Where support has been disaggregated, the amount of support per line is more reflective of the actual costs of providing service. By "creamskimming" the lower cost lines, an ETC may receive more support

than is reflected in the ILEC's costs to serve that wire center because support for each line is based on the ILEC's average costs for serving the entire service area where disaggregation has not occurred. A density analysis test could be used to examine the creamskimming potential which would require an ETC to show that such would not occur where the ETC proposes to **serve** only a portion of a rural ILECs' service area.⁶

Certain parties state that a creamskimming analysis is unnecessary because Mississippi is primarily a rural state with only three cities classified as non-rural. Therefore, they assert that the creamskimming potential is low in Mississippi. Centennial asserts that the required reports regarding unfulfilled orders are sufficient safeguards against creamskimming.

The Commission finds that there exist areas of higher population concentrations than others, even within an officially rural area. We must continue to carefully study requests to serve only in **RSAs** of higher population where a rural ILEC maintains several wire centers in different RSAs. We also are concerned about CETCs ("wireless") who only advertise and make available its services in the most heavily populated portions of a rural ILEC's study area, despite licensure to serve an entire study area. Therefore, this Commission finds that if an ETC proposes to serve only a portion of a rural service area, it must include a creamskimming analysis as part of its filing. The Commission finds that this creamskimming analysis will be performed as a part of the public interest test for ETC applicants seeking designation below the service area level of rural ILECs. In other words, when an ETC applicant seeks designation in a disproportionate share of the higher density wire centers in an ILEC's service area, the possibility for creamskimming must be examined. Line density is an important element of total costs to serve an area because wire centers with the highest density are therefore the least costly to serve on a per-subscriber basis.

Efforts should be made to avoid creamskimming as the rural ILEC would be unfairly affected since it would be required to serve each high cost wire center in its rural service area while CETCs could target the rural ILECs' customers in the lowest cost areas and expect to receive support for serving the customers in those areas. The Commission will examine the degree of population density disparities.

⁶ FCC 05-46, ¶49

among wire centers within rural service areas; the extent to which an ETC applicant would be serving only the most densely concentrated areas within a rural service area; and whether the ILEC has disaggregated its support at a smaller level than the service area (e.g., at the wire center level). Obviously, a lesser population density indicates a higher cost area. Therefore, reviewing the disparities in densities can reveal when an ETC will serve only the lower cost wire centers to the exclusion of other less profitable areas. In other words, a comparison of population densities in the entire service area that the wire centers serve will be compared to the population density in the proposed service area. A creamskimming analysis will also be employed to assess whether the majority of the customers that the carrier proposes to serve are located in the low cost, high density wire centers.

The Commission finds that a creamskimming analysis is unnecessary for ETC applicants seeking designation below the service area level of a non-rural ILEC. The forward-looking cost methodology used to distribute support to individual wire centers for non-rural areas protects against creamskimming since low cost wire centers receive little or no high cost support.

In summary, this Commission will determine if a proposed ETC designation is in the public interest regardless of whether the proposed designation is in an area served by a rural or non-rural carrier. However, the creamskimming analysis will only be employed in rural study areas where the potential for creamskimming is high.

2 *Should the Commission consider the impact of the proposed designation upon the universal service fund? Should the Commission adopt an upper limit on the number of ETCs that can be designated in any given area? Should the Commission adopt a specific per-line support benchmark for designating ETCs?*

Certain parties recommend that the amount of per-line support currently provided to an area should not be considered. They assert that the eligibility criteria should only be examined. The rural ILECs maintain that the Commission should examine the per-line support amount that would be received by the ETC as this would be extremely relevant in rural areas since the per-line amount provided to an additional ETC is not based on the applicant's cost but rather is based on the rural ILEC/ETC's costs. The rural ILECs assert that the burden of increasing funding levels may outweigh increased choice since

increased choice may already exist in the proposed area. They suggest that the Commission rigorously examine the need for additional customer choice. Centennial argues that it is unclear how a consideration of the amount of per-line support would assist the Commission in its public interest analysis. Another presented argument was that it would not be competitively neutral for this Commission to examine the amount of per-line support received by CETCs but not the support received by ILECs. Sprint concurs with Nextel Partners that this Commission should not adopt any per-line support test that inhibits competitive entry into high cost areas. Southern LINC Wireless recommends that the ETC application process not be used to control the size and growth of the USF. Further, Cellular South recommends that this Commission not establish a specific per-line benchmark when considering a request for ETC designation. Cellular South advances that any financial impact on the size of the fund must be balanced against other objectives such as ensuring competitive neutrality and giving consumers in all areas of the country access to comparable services.

The FCC in FCC 05-46, ¶55 stated its belief that states making public interest determinations may properly consider the level of federal high cost per-line support to be received by ETCs. The FCC stated that a relevant factor in deciding if it is in the public interest to have additional ETCs designated in an area might be the level of per-line support provided to the area. Further, where the per-line support is high enough, the state may be justified in limiting the number of ETCs in that study area because funding multiple ETCs in such areas could impose strains on the universal service fund,

The Commission agrees with the FCC that an examination of per-line support the ETC applicant would receive is a factor in determining whether the carrier should receive ETC status. However, the Commission finds that it will not adopt a specific per-line support benchmark for designating ETCs. The concern is the effect of many ETC designations upon the fund. Funding multiple ETCs in certain areas may place an undue strain on the universal service fund; therefore, the Commission may, on a case-by-case basis, limit the number of ETCs in affected study areas.

In summary, this Commission will apply the following criteria when analyzing whether a requested designation is in the public interest:

- Benefits of increased consumer choice such as an analysis of varying choices ~~of~~ plans and products proposed to be offered for the consumers' selection and quality of service. Further, the offering of programs such as Lifeline assistance and Link-up and other programs for economically challenged individuals will be examined;
- Exploration of the unique advantages and disadvantages of a competitor's service offerings ~~as~~ discussed in the checklist. Also, included will be a review ~~of~~ the premium services and associated charges that will be offered in nonurban areas. Further, inadequate service coverage and dropped call rates will be reviewed;
- Where designation is sought below the study area level of a rural ILEC, the Commission will employ a creamskimming analysis that compares the population density of each wire center in which the ETC applicant seeks designation against that of the wire centers in the study area in which the ETC applicant does not seek designation. Other factors as described in the checklist will be examined. Where a finding is made that the potential for creamskimming is adverse to the public interest, the requested designation will be denied;
- Ability of the ETC applicant to timely provide service and to furnish a reasonable quality of service;
- Review of the effect of the proposed designation upon the universal service fund on a case-by-case; and
- Any other relevant factors needed to be examined per case-by-case basis

II. Administrative Requirements for ETC Designation Proceedings

I. What administrative requirements should this Commission establish?

Generally, there was support for the adoption of the administrative requirements discussed in this Commission's Order initiating this docket. The rural ILECs **assert** that the Commission should require **all** applications for ETC status to be served on each affected existing ETC, including each ILEC/ETC, as well as additional ETCs that may have been designated in the ILEC/ETC's service area. The Commission agrees that each carrier which seeks ETC status, must, at the time of its filing, serve notice of said filing upon each previously designated ETC, including each ILEC/ETC in the affected service area. The ETC applicant must also **file** a certificate verifying the date that the service was provided.

Centennial proposes that the Commission's Order provide for **the** effective date of the ETC designation and provide for which wire centers the designation is effective. The Commission finds that our orders routinely provide the effective date of the order. Further, the Commission finds that the designation, where appropriate, will identify any required follow-up filings or other conditions imposed

prior to the ETC designation being final. The orders will further identify each wire center which is affected by the designation.

In summary, the Commission finds that all future ETC designation orders issued by this Commission will contain:

- The name of each ILEC study area in which an ETC has been designated;
- A clear statement of whether the ETC has been designated in all or **part** of each ILEC's study area;
- List of all wire centers in which the ETC has been designated, using either the wire center's common name or the Common Language Location Identification Code;
- The effective date of the order;
- Identification of any required follow-up filings or other conditions imposed prior to the ETC designation being final, (the Commission will notify USAC when said conditions have been met); and
- Any other relevant and necessary information

III. Annual Certification and Reporting Requirements

1. *What requirements should the Commission adopt for the annual certification and reporting by ETCs? Should the date of the annual certification change?*

Annually, this Commission certifies to the FCC whether state designated ETCs are eligible to continue receiving federal USF support. Currently, ETCs must submit their annual certification to this Commission by June 1st of each year so that we have ample time to analyze the data and report to the FCC by October 1st of each year. The issue is whether and how the current procedure should be changed, if at all. This Commission needs assurance that each ETC is fulfilling its universal service obligation, while minimizing the reporting burden. The Commission clarifies that a carrier that has been previously designated as an ETC does not have to reapply for designation but must submit proof of compliance with the eligibility requirements (**"Part I.A., .supra"**) no later than August 1, **2007**. A failure to satisfy this mandate will lead to an inquiry as to whether the ETC designation should be revoked. Also, previously designated ETCs must comply with the annual certification and reporting requirements discussed herein and in the checklist, on a going forward basis.

The Commission finds that **June 1st** of each year shall continue to be the applicable date for ETCs to submit their annual reporting and certification information. The Commission finds that for year **2007** all designated ETCs must furnish their annual report no later than May 1, **2007**, comply with the quarterly progress reporting requirements, and submit a USF Utilization Plan **no** later than June **1,2007**,

Beginning with year **2008**, **all** designated ETCs must comply with the June 1st deadline, which is an ongoing annual and quarterly reporting and certification requirement.

This Commission finds that the reporting requirements, described on pages 5 and 6 of the checklist, will only have to contain a USF Utilization Plan for a one-year period instead of a five-year period recommended by the FCC. Market forces are so dynamic that any plans beyond one year would likely be mooted by competition,

To clarify, the Commission finds that the reporting and certification requirements will apply to all ETCs, not **just** ETCs receiving USF funds. Universal Service should remain competitively neutral. Further, TA96 requires a designated ETC *to* offer the services supported by the federal **USF** throughout the designated service area; this requirement **is** not conditioned upon receipt **of** federal universal service high cost fund support. Thus, all requirements that apply to ETCs will also be applicable to all designated ETCs, regardless of whether they receive high cost fund support and regardless **of** whether the ETC is a wireline or wireless carrier. The Commission places carriers on notice that it may rescind any previously granted ETC designation for failure of **an** ETC to comply with the requirements of § 214(e) of TA 96 or any requirements imposed by this Commission, including the provisions of the checklist attached hereto. The Commission further emphasizes to all designated ETC carriers that this Commission, in its discretion, may decline to file with the FCC the annual certification for a particular carrier if this Commission makes a finding that the carrier is utilizing high cost support inconsistently with the applicable provisions of TA96. In such circumstances, a docket will be opened to investigate these issues and the affected carrier will be given an opportunity to respond to such investigation

The Commission finds the FCC stated in FCC 05-46, ¶61, that the states have the primary duty to designate ETCs, and said decisions are required to be consistent with the public interest, convenience and

necessity. The FCC further stated that state commissions are most familiar with the service area for which ETC designation is sought and are well-equipped to determine their own ETC eligibility requirements. Further, the FCC commented that nothing in § 214(e) of TA96 prohibits the states from imposing their own eligibility requirements in addition to those described in § 214(e)(1). With these principles in mind, this Commission finds that the additional requirement that ETCs furnish supporting advertising documentation is reasonable. Advertising service throughout the service area is a basic requirement that an ETC applicant must show 47 USC § 214(e)(1). Therefore, a requirement that a carrier present advertising documentation is reasonable and fair. There exists little monitoring regarding whether an ETC is advertising, particularly in low income areas. Therefore, to ensure that TA96 is being followed, the Commission will require advertising documentation to be provided with the annual certification filing. This additional certification requirement shall also be submitted no later than June 1st of each year beginning June 1, 2008.

The Commission finds that the annual certification and reporting information may be filed as confidential by a carrier where such filings contain exempt proprietary, trade secret, confidential and/or financial records and are accompanied by a written acknowledgement that the material can be reviewed by the **Staff** as it assists this Commission in ensuring that universal service support is and will continue to be used in accordance with federal law and the mandates of this Commission.

IV. Adopted Checklist

This Commission adopts the all-inclusive checklist attached hereto as Exhibit "A" which is in conformance with the terms of this Order and is incorporated herein by reference. This adopted checklist shall be complied with by both previously designated ETCs, regardless of type of carrier, as well as future designated ETCs.

V. Ordered Section

IT IS THEREFORE ORDERED THAT

a. All of the requirements for initial designation of eligible telecommunication carriers, as described herein, shall apply to any pending or any future filings seeking ETC designation;

b. All of the requirements for the annual and quarterly reporting and certification requirements, as described herein, shall apply to all ETC carriers;

c. All ETC carriers shall comply with the adopted checklist and with all requirements discussed herein;

d. Previously designated ETCs are not required to reapply for designation but must file proof of their compliance with the eligibility requirements described in Part I A of the adopted checklist, no later than August 1, 2007. This compliance filing is not a continuing requirement but is simply a one-time filing event;

e. The Commission's previously adopted annual certification date of June 1st ~~of~~ each year or, if that date is a non-business day, the following business day, shall continue to apply to all designated ETCs when complying with the annual reporting and certification requirements with one caveat. This caveat being that all ETCs are given until June 1, 2008, to comply with the certification requirements described on page 6 of the adopted checklist. However, ETCs must file their USF Utilization Plan by June 1, 2007. For each year on and after June 1, 2008, each previously designated ETC must meet the ongoing annual June 1st deadline for all of the filing requirements detailed in Part II of the adopted checklist Annual Reporting and Certification Requirements;

f. The administrative requirements discussed herein are adopted;

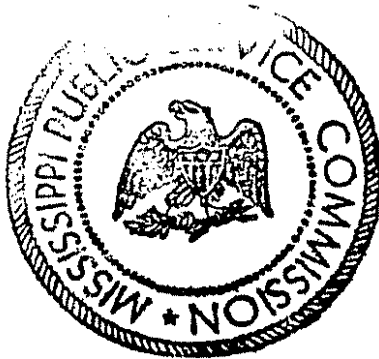
g. The Commission will rescind any ETC designation for failure of an ETC to comply with the requirements of § 214(e) of TA96 or any other requirements imposed by this Commission, including the provisions contained herein and in the adopted checklist; and

h This Commission may require the submission of any other relevant and material information on a case-by-case basis, which is necessary to ensure that ETCs are operating in accordance with applicable state and federal requirements.

This Order shall be deemed issued on the day it is served upon the parties herein by the Executive Secretary of this Commission who shall note the service date in the file of this Docket

Chairman Nielsen Cochran voted Aye; Vice-Chairman Leonard Bentz voted Aye; and Commissioner Bo Robinson voted Aye

Dated, this the 6th day of April, 2007.



MISSISSIPPI PUBLIC SERVICE COMMISSION

Nielsen Cochran
Nielsen Cochran, Chairman

Leonard Bentz
Leonard Bentz, Vice-chairman

Bo Robinson
Bo Robinson, Commissioner

ATTEST: A TRUE COPY

Brian U. Ray
Brian U. Ray, Executive Secretary

Effective this the 6th day of April, 2007

ELIGIBLE TELECOMMUNICATIONS CARRIER ("ETC") CHECKLIST

I. Initial ETC Designation

A. Eligibility Requirements¹

1. Commitment and Ability to Provide the Supported Services

(a) Required Services

ETC applicants must establish ability to provide certain services using either their own facilities or a combination of their own facilities and resale of another carrier's services, pursuant to 47 U.S.C. § 214(e) and 47 C.F.R. § 54.101, as follows:

- (i) Voice grade access to the public switched network;
- (ii) Access to free-of-charge "local usage," defined as an amount of minutes of use of exchange service;
- (iii) Dual-tone multi-frequency signaling or its functional equivalent;
- (iv) Single-party service or its functional equivalent;
- (v) Access to emergency services;
- (vi) Access to operator services;
- (vii) Access to directory assistance;
- (viii) Access to interexchange services; and
- (ix) Toll limitation services for qualifying low-income customers.

(b) Supporting Documentation

ETC applicants must also comply with the following:

- (i) Supporting documentation that the carrier does or will advertise the availability of the above-mentioned services and their associated charges in a media of general distribution and include Lifeline and Link-Up services;
- (ii) Provide Lifeline and Link-Up tariffs which conform to the provisions of Rule 9.113 of the *Commission's Public Utilities Rules of Practice and Procedure*;
- (iii) The identity and telephone number of a designated representative with authority to resolve customer service, quality of service and/or Lifeline or Link-Up inquiries;
- (iv) Written commitment to offer all supported services throughout its designated service area; and
- (v) Written statement that the carrier is in full compliance with all Commission orders and Commission rules and regulations. (Carrier must be in good standing with the Commission)

(c) Manner of Service

ETC applicants shall make specific commitments to provide service to requesting customers in the service areas for which such applicant is designated as an **ETC**. In providing supported services, **ETC** applicants shall provide immediate service to prospective customers within its existing network. When the prospective customer lies within the carrier's service area, but outside of its existing network coverage, the **ETC** shall take the following steps in descending order, as applicable:

¹ The ETC checklist is not to be used as a replacement for carrier obligations under Rule 7, Certificate Proceedings, of the *Commission's Public Utilities Rules of Practice and Procedure*. All ETC applicants are expected to initially meet the requirements of Rule 7 before receiving consideration for designation as an ETC under the requirements detailed herein.



- (i) Determine whether the requesting customer's equipment can be modified or replaced to provide service;
- (ii) Determine whether a roof-mounted antenna or other equipment can be deployed to provide service;
- (iii) Determine whether adjustments can be made at the nearest facility to provide service;
- (iv) Determine whether a cell extender, repeater or other similar equipment can be employed to provide service;
- (v) Determine whether there are any other adjustments to network or customer facilities that can be made to provide service;
- (vi) Determine whether it can offer resold services from another carrier's facilities to provide service;
- (vii) Determine whether additional facilities can be constructed to provide service and evaluate the costs and benefits of using high cost support to serve the number of customers requesting service through such additional facilities. If there is no possibility of providing service short of construction of new facilities, the ETC will report this fact to the Commission, along with the projected costs of construction and the ETC's determination as to whether the request for service is reasonable and whether high cost funds should be expended on the request; and
- (viii) Steps (i - vi) of this procedure must be completed by the service provider within thirty (30) days of receiving a request for service. Should the provider find it necessary to proceed to Step (vii), the provider will promptly notify the Commission and complete the analysis within an additional fifteen (15) days

(d) Initial Filing Requirements

At the time of an ETC's filing for designation, it shall be expected to submit a Universal Service Fund Utilization Plan (USF Utilization Plan) which must contain the amount of universal funds the ETC applicant expects to receive in the following year and provide:²

- (i) Proposed use of the funds;
- (ii) Build-out plan for areas where facilities do not yet exist;
- (iii) Explanation of how universal service funds will be used to improve network coverage, signal strength, or capacity that would not otherwise occur absent the receipt of high cost support; and
- (iv) Map(s) depicting existing facilities, coverage area and planned sites of new facilities upon designation as an eligible carrier.

(e) Ongoing Filing Requirements

In addition, ETC applicants receiving designation shall be expected to submit the following information to the Commission on an ongoing basis:

- (i) Quarterly progress reports detailing the number of service requests in the licensed area which go unfulfilled and the basis for refusal of service;
- (ii) Quarterly progress reports detailing the amount of universal service funds received for the quarter and updates of the amount of the projects previously approved by the Commission in its USF Utilization Plan³; and
- (iii) Quarterly progress reports detailing the number of consumer complaints per 1,000 handsets or access lines, whichever is applicable

² This information should be furnished on a wire center-by-wire center basis throughout its designated service area. Where it is not possible to provide such detailed information by wire center, this information must be furnished on a county-by-county basis

³ This information should be furnished on a wire center-by-wirecenter basis

(f) Adequate Financial Resources

- (i) ETC applicants shall demonstrate financial stability by providing all financial documentation that is required pursuant to Appendix "A," Schedule 1, of the *Commission's Public Utilities Rules of Practice and Procedure*; and
- (ii) ETCs shall file annual reports with the Commission as required under Rule **16.101** of the *Commission's Public Utilities Rules of Practice and Procedure*,

2. Ability to Remain Functional in Emergency Situations

(a) Emergency Operations Plan

ETC applicants shall demonstrate an ability to remain functional in emergency situations. ETCs shall file a current emergency operations plan or other designated emergency plan for the Commission to use in determining whether this requirement has been met. In the event an ETC does not have such a plan in place, the Commission shall evaluate the carrier on a case-by-case basis to determine whether it meets this requirement, considering a wide range of factors including, but not limited to, whether the carrier:

- (i) Has a reasonable amount of backup power to ensure functionality without an external power source;
- (ii) Is able to reroute traffic among damaged facilities; and
- (iii) Is capable of managing traffic spikes resulting from emergency situations

(b) Outage Reporting

ETCs shall adhere to the FCC reporting requirements concerning outages and shall provide copies of such reports to the Commission, upon request.

3. Satisfaction of Consumer Protection and Service Quality Standards

ETC applicants shall demonstrate commitment to meeting consumer protection and service quality standards

(a) Wireless ETCs

Wireless ETCs shall meet this requirement by:

- (i) Compliance with the CTIA Consumer Code;
- (ii) Submission to the Commission the number of consumer complaints per 1000 handsets for each quarter; and
- (iii) Other presented commitments will be evaluated on a case-by-case basis

(b) Wireline ETCs

Wireline ETCs shall meet this requirement by:

- (i) Compliance with ~~the Commission's Rules and Regulations Governing Public Utility Service~~;
- (ii) Compliance with Commission designated service quality standards applicable for each carrier;
- (iii) Submission to the Commission the number of consumer complaints per 1000 access lines for each quarter;
- (iv) Compliance with all applicable federal standards and requirements; and
- (v) Other presented commitments will be evaluated on a case-by-case basis,

4. Local Usage Plan

ETC applicants will have the burden of showing how its local usage calling plan is "comparable" but not "identical" to those offered by the ILECs in the proposed service area. Further, all ETCs will be required to offer a minimum of one affordable offering similar to an ILEC's basic local service offering for low income customers. ETC applicants must submit

their specific local service offerings at the time of their filing. The Commission will review each ETC applicant's local usage plans on a case-by-case basis. However, it is mandatory that each ETC commit to furnish Lifeline and Link-Up service to qualified consumers. Pursuant to the above, the Commission, in the formulation of minimum local usage plans will also consider:

- (a) The size of the local calling scope compared to that of the incumbent;
- (b) Calling plans that include some free minutes;
- (c) Whether carriers offer unlimited free minutes to government, social service, health facilities, educational institutions and emergency numbers; and
- (d) Any other factors deemed material by the Commission

5. Equal Access

ETC applicants shall acknowledge in writing that it may be required to provide equal access to long distance carriers. This would be required in the event that no other ETC is providing equal access within the service area, subject to that provider's obligations under federal law.

B. Public Interest Analysis

1. Goals

The Commission shall consider whether each carrier has satisfied "the public interest criteria" in both rural and non-rural areas, on a case-by-case basis, considering the general goals of:

- (a) Preserving and advancing universal service;
- (b) Ensuring the availability of quality telecommunications services at just, reasonable and affordable rates; and
- (c) Promoting the deployment of advanced telecommunications and information services to all regions of the nation, including rural and high cost areas

2. Benefits of Increased Consumer Choice

The Commission shall consider the benefits of increased consumer choice that ETC applicants provide to consumers in rural and high cost areas. Each ETC applicant must prove there exists specific choices of service offerings in both rural and high cost areas. Further, the Commission reserves the option of addressing issues relevant to the public interest that each unique ETC application may present to this Commission. The Commission shall evaluate each carrier on a case-by-case basis to determine if it meets this requirement.

3. Unique Advantages and Disadvantages of Competitors' Service Offerings

The Commission shall consider the advantages and disadvantages of a competitor's service offerings as follows:

- (a) Increased mobility;
- (b) Reduced or eliminated toll charges;
- (c) The availability of services such as voice mail, call waiting and call forwarding;
- (d) Dropped call rates and inadequate service coverage;
- (e) Showing of an offering of lesser charges to potential customers;
- (f) Ensuring the ability of rural customers to have access to features and premium services largely promoted in urban areas; and
- (g) Other factors deemed relevant by this Commission, on a case-by-case basis.

4. Impact of Designation upon the Universal Service Fund

The Commission shall consider the impact of designation on the universal service fund on a case-by-case basis, considering, among other things, the per-line support received by the ILEC.

5. Creamskimming Potential

The Commission shall analyze the potential for creamskimming for ETC applicants only if the carrier seeks designation below the service area level of an rural ILEC. The Commission shall consider a number of factors, on a case-by-case basis, to determine whether there is a potential for creamskimming including, but not limited to, the following:

- (a) Examining the degree of population density disparities among wire centers within rural service areas;
- (b) The extent to which an ETC applicant would be serving only the most densely concentrated areas within a rural service area;
- (c) Whether the ILEC has disaggregated its support at a smaller level than the service area; and
- (d) Any other factors deemed relevant by the Commission.

C. Administrative Requirements for ETC Designation Proceedings

1. Service Requirements

All carriers which submit a filing for ETC status must, concurrently with its filing, serve notice of their filing upon each previously designated ETC, including each ILEC/ETC in the affected service area. The ETC applicant must **also** file a certificate verifying the date that this service was provided.

2. Provisions Which will be Included in Orders

Future ETC designation orders adopted by the Commission will include the following provisions:

- (a) Name of each ILEC study area in which an ETC has been designated;
- (b) Clear statement of whether the ETC has been designated in all or part of each ILEC's study area;
- (c) List of all wire centers in which the ETC has been designated, using either the wire center's common name or the Common Language Location Identification (CLLI) Code;
- (d) Identification of any required follow-up filings or other conditions imposed prior to the ETC designation being final; (the Commission will notify USAC when said conditions have been met);
- (e) Provision of any other relevant and necessary information; and
- (f) Effective date of the order.

II. Annual Reporting and Certification Requirements

A. Annual Filing Requirements

The filing requirements shall be submitted on or before June 1st of each calendar year for the Commission's use in complying with the certification requirements set forth by the FCC.

1. USF Utilization Plan

The required USF Utilization Plan shall include the amount of universal funds the carrier expects to receive in the following year and shall address the following items, as applicable:²

- (a) Carrier's proposed use of the funds;
- (b) Build-out plan for areas where facilities do not yet exist;
- (c) Explanation of how universal service funds will be used to improve network coverage, signal strength, or capacity that would not otherwise occur absent the receipt of high cost support; and
- (d) Map(s) depicting existing facilities, coverage area and planned sites of new facilities

2. Certification Requirements

The ETC shall annually certify the following:

- (a) The ETC is able to function in **an** emergency;
- (b) The ETC is complying with applicable service quality standards and consumer protection **rules**;
- (c) The ETC is complying with the ECC reporting requirements concerning outages;
- (d) The ETC is offering a local usage plan comparable to that offered by the ILEC in the relevant service areas;
- (e) The ETC acknowledges that the Commission may require it to provide equal access **to** long distance carriers in the event that no other ETC is providing equal access within the service area subject to that provider's obligations under federal law; and
- (f) The ETC is advertising the required supported services throughout its service area (Supporting advertising documentation must be attached to the certification)

B. Annual Reports

ETCs shall **file** annual reports with the Commission as required under *Rule 16,101 of the Commission's Public Utilities Rules & Practice and Procedure*. Annual Reports must be-filed with the Commission on or before May 1st of each calendar year.

C. Quarterly Progress Reports

ETCs shall submit quarterly progress reports, which detail the following information:

- (a) The amount of universal service funds received for the quarter and updates **of** the amount of the projects previously approved by the Commission in its **USF Utilization Plan**,³
- (b) The number of service requests in the licensed area which go unfulfilled and the basis for refusal **of** service; and
- (c) The number **of** consumer complaints per 1000 handsets or access lines, whichever **is** applicable